IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.23 OF 2004

Nandkishor N. Ranade ...Applicant
vs.
State of Maharashtra & Ors. ...Respondents

Ms Revati P. Mohite-Dere for the applicant
Mr.Nitin Jamdar for the respondent No.2
Ms M.M.Deshmukh,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : AUGUST 22,2005

P.C.:

1. The order dated 20th December 2004 records that the parties i.e. Applicant and the Respondent No.2 agreed for amicable settlement of the dispute between them and an Affidavit-cum-undertaking was filed by the Applicant specifying the manner in which he was to make payments of various amounts to the Respondent No.2. The said Affidavit was taken on record. This court recorded that the terms of settlement are acceptable to the Respondent No.2.

2. As the Applicant could not comply with the payment schedule incorporated in the Affidavit, Criminal Application No.3593 of 2005 was filed in this Court seeking extension of time. By order dated 8th July 2005, the said application was disposed of. By the said order this Court recorded that the Applicant has paid a sum of Rs.50,000/- to the Respondent No.2 and a sum of Rs.5,000/- by way of costs. By the said order, the balance amount of Rs.1,00,000/- was ordered to be paid

within a period of six weeks from that date. There is no dispute between the parties that a sum of Rs.1,00,000/- has been paid by the Applicant to the Respondent No.2 by a demand draft. Thus, the substantial compliance has been made by the Applicant with Affidavit/undertaking dated 20th December 2004. This court by order dated 20th December 2004 recorded that the terms of settlement on the basis of the said undertaking are acceptable to the Respondent No.2. The Clause (d) of the said undertaking records that in view of the settlement, the conviction and sentence awarded against the Applicant be set aside.

3. The parties have settled the dispute to their satisfaction and the Respondent No.2 has received full amount as per the settlement. In view of the compliance with the terms of undertaking and in view of order dated 2nd December 2004, in my view the conviction and sentence passed by the order dated 16th January 2002 by the learned Judicial Magistrate (AC), Pune in Criminal Case No.2493 of 1996 deserves to be quashed and set aside. Accordingly, the conviction and sentence dated 16-1-2002 passed by the Judicial Magistrate (AC), Pune by confirmed by the learned Additional Sessions Judge, Pune vide Judgment and Order dated 7th January 2004 is set aside and the Applicant is acquitted of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

4. Parties to act upon an authenticated copy of this order.

JUDGE